IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

WRIT PETITION NO : 1800 of 1995

Between:

T.Mathaiah S/o.T.Chinnaiah @ chinna Kannaiah
R/o.Thotanupalli Harijanawada
H/o.47, Devalampet village Vedurukuppam Mandal, Chittoor dist.

..... PETITIONER

AND

1 The Dist. Collector, Chittoor Chittoor Dist. Chittoor
2 The Revenue Divisional Officer Chittoor, Chittoor Dist.
3 The Mandal Revenue Officer Vedurukuppam Mandal, Chittoor Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in trying to dispossess the petitioner from enjoying the Tamrind treee situated in S.No.122/1, Thotanupalli, h/o.47, Devalampet, Village, Vedurukuppam Mandal, Chittoor Dist., without passing any order is illegal, arbitrary and unconstitutional and consequently direct the respondents to permit the petitioner to enjoy the said Tamrind tree situated in S.No.122/1, thotanupalli Village, h/o.47 Devalampet Village, Vedurukuppam Mandal, Chittoor Dist.

Counsel for the Petitioner: MR.G.DASARADHA RAMI REDDY

Counsel for the Respondents: GP FOR REVENUE

The Court made the following :

ORAL ORDER:

The petitioner, seeking writ of mandamus, filed this writ petition to declare the action of the respondents in trying to dispossess him from enjoying the tamarind tree situated in S.No. 122/1 of Thotanupalli h/o 47 Devalampet village, Vudurukuppam Mandal, without passing any order as illegal and to consequently direct the respondents to permit the petitioner to enjoy the said tree.

The case of the petitioner is that the then Thahasildar granted a 2-C patta in favour of the father of the petitioner in respect of the tamarind tree on 30-9-1976 after conducting enquiry and that the father of the petitioner used to pay tree tax till his death i.e. up to the year 1984 and from then onwards, his brother Subrahmanyam has been paying the tax and that the petitioner and his brothers are enjoying the fruits of the said tree. It is his further case that, due to the reasons best known, the 3rd respondent sent a notice ROC. B/161/93 dated 13.10.1994 to the petitioner calling explanation within seven days that why the patta should not be cancelled. Petitioner submitted his explanation on 22.10.1994 enclosing the copies of the tax receipts showing their possession over the said tree. But now the petitioner came to know that the third respondent passed an order cancelling the patta stood in the name of their father and granted it in somebody's favour. Hence, the present petition seeking a direction to the respondents not to cancel the patta granted in favour of the father of petitioner and not to disturb their possession over the said tree.

Learned counsel for the petitioner contends that since the petitioner and his brothers are in possession and enjoyment of the tamarind tree for the last three decades, their possession cannot be taken away by the respondents without following due process of law.

Issuance of patta in respect of the tamarind tree in favour of the father of the petitioner is not in dispute. So also issuance of notice by the third respondent and submission of explanation by the petitioner is also not in dispute. The petitioner, in support of his contention that they are in possession and enjoyment of the said tree, has filed the copies of the tax receipts purported to be in the name of his father. But it is to be observed that the patta standing in the name of the father of the petitioner is still in force and is not yet cancelled under any proceedings.

Therefore, in the light of the averments made in the petition and in view of the fact that the petitioner and his brothers are in possession and enjoyment of the said tamarind tree, and since the patta standing in the name of the father of the petitioner is not yet cancelled, it would be suffice, in the interests of justice, to direct the respondents not to disturb the possession of the petitioner and his brothers in respect of the tamarind tree situated in S.No. 122/1, Thotanupalli village h/o 47 devalampet village of Vedurukuppam Mandal in Chittor District, without following due process of law.

With the above direction, the writ petition is disposed of. No costs.

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kvsn 26-08-2004

To

1 The Dist. Collector, Chittoor Chittoor Dist. Chittoor
2 The Revenue Divisional Officer Chittoor, Chittoor Dist.
3 The Mandal Revenue Officer Vedurukuppam Mandal, Chittoor Dist.

4 Copy to The G.P. for LandRevenue, High Court Buildings, Hyderabad.

5 Two C D copies.